



CITY OF HAYWARD AGENDA REPORT

Meeting Date: 7/26/01

Agenda Item: 4

TO: Planning Commission

FROM: Arlynn J. Camire AICP, Associate Planner

SUBJECT: Appeal of Planning Director's Denial of Administrative Use Permit Application No. 01-150-06 - Jeannie Young For Compass Telecom Services (Applicant)/San Leandro Hayward Elks Lodge (Owner) - Request to Construct, Operate and Maintain an Unstaffed, Wireless Telecommunication Facility Consisting of a 60-foot Tall Stealth Structure and Equipment Cabinets in the Rear Yard of the Elks Lodge, at 24970 Hesperian Boulevard, in the Neighborhood Commercial Zoning District

RECOMMENDATION:

Staff recommends that the Planning Commission find that the project is categorically exempt from environmental review and deny the appeal, upholding the Planning Director's denial of the administrative use permit, subject to the attached findings.

BACKGROUND:

Setting

The site is located at the northeast corner of Turner Court and Hesperian Boulevard. The property is developed with the San Leandro-Hayward Elks Lodge consisting of the single-story lodge building, parking and a large outdoor landscaped area.

Proposed modifications to the site consist of the installation of a 60-foot high Sprint stealth wireless telecommunication antenna designed to have the appearance of a palm tree. The palm tree structure will have three antenna sectors placed within the palm fronds painted green to match the color of the fronds. A single-story equipment building will be located at the base of the antenna containing the electronic equipment. The height of the building will be 10 feet 8 inches to the peak of the roof.

Surrounding Land Use/Zoning

North - A movie theater complex with parking zoned "*CN*" *Neighborhood Commercial*
East - A parking lot for the movie theater zoned "*CN*" *Neighborhood Commercial* and single-family homes zoned "*RS*" *Single-Family Residential* that front on Pear Street and back up to the commercial properties fronting on Hesperian Boulevard

South - Lyons Restaurant and several fast-food restaurants zoned "*CN*" *Neighborhood Commercial*
West - Chabot College zoned "*RS*" *Single-Family Residential*

Zoning, General Plan and Neighborhood Plan Consistency

The property is designated on the Zoning Map as "*CN*" Neighborhood Commercial and requires an Administrative Use Permit review for a stealth structure. The property is designated on the General Policies Plan Map as *Commercial/High-Density Residential*. (CHDR). These areas may include retail, office of general commercial uses. This area is covered by the Southgate Neighborhood Plan.

The proposed structure is not consistent with the General Plan and Neighborhood Plan policies, or the purposes of the City's Telecommunications Ordinance, because the facility is proximate to a single-family residential neighborhood and will have a negative visual impact on it. The proposed 60-foot high structure will alter the character of the neighborhood by introducing a pole structure that will have an un-natural appearance in comparison to the surrounding mature palm trees. The applicant has not been able to demonstrate that it is possible to match the palm frond color and the texture of the unique species of palm at this site.

Turner Court is a major entry into the Southgate neighborhood to the east. Residents of this neighborhood do not support this proposal. They do not look favorably on the proposed structure or the attempt to disguise the structure to match the existing trees on the site. If fact, they are not particularly fond of the existing palm trees on the Elks Lodge site. They do not think the addition of another palm tree will not enhance their neighborhood.

Appeal

The Planning Director denied the application for an administrative use permit on May 4, 2001. The applicant appealed this decision on May 18, 2001. The applicant believes that the proposed facility and site design are highly compatible with surrounding uses. Staff believes that there are other options available to the applicant that would receive greater acceptance from the neighborhood and fulfill the purposes of the City's Ordinance to protect against potentially adverse effects and visual blight as a result of such facilities.

Environmental Review

The project is categorically exempt from CEQA review pursuant to Section 15270, Projects Which are Disapproved.

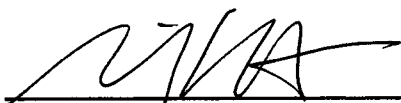
Public Notice

On July 13, 2001 a notice of public hearing was mailed to property owners and occupants within 300 feet of the property as noted on the latest Assessor's records, and to the Southgate Neighborhood Task Force members.

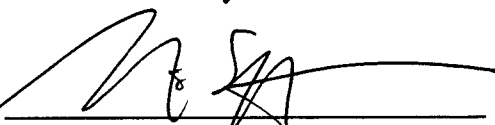
Conclusion

The proposed antenna at this location will not be in compliance with all applicable zoning and general policy plan criteria. The antenna and support equipment will not be compatible with the residential neighborhood to the east of the site. The antenna could be located at another nearby location, such as the Chabot College campus across Hesperian Boulevard, or located in front of the property, replacing the flagpole, where it would have little or no impact on nearby residential uses. There are other options with the potential for better screening from surrounding properties and streets. The proposed antenna is classified as a "stealth" facility; however, without an assurance that it will appear no differently than the surrounding natural palm trees, and with continued observation by an active neighborhood association, it will be noticeable.

Prepared by:

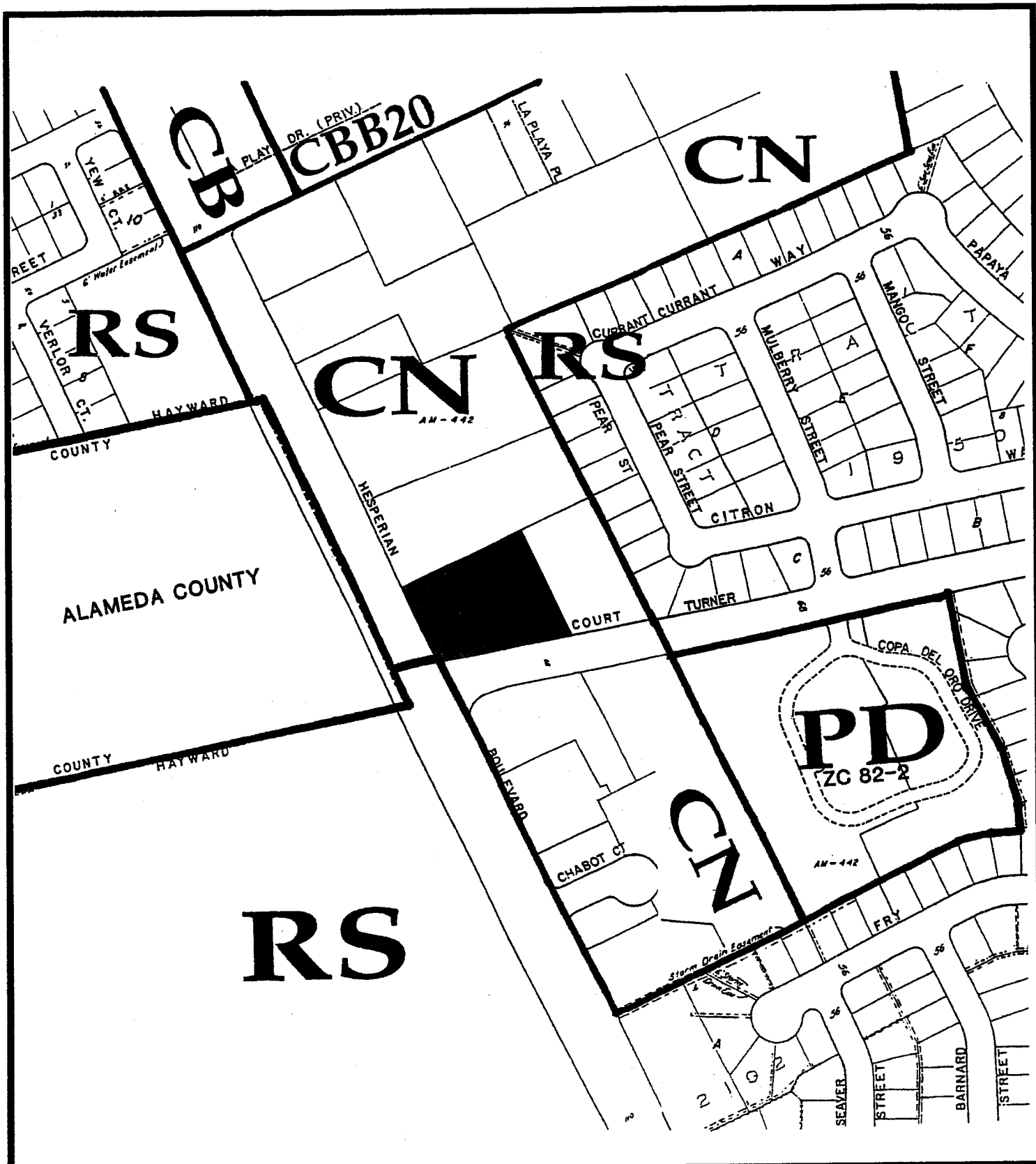

for Arlynne J. Camire, AICP
Associate Planner

Recommended by:


for Dyana Anderly, AICP
Planning Manager

Attachments:

- A. Area Map
- B. Site Plan
- C. Findings for Denial
- D. Applicant's Supporting Material for Appeal
- E. Picture of Antenna Structure



Area & Zoning Map

AUP 01-150-15

Address: 24970 Hesperian Blvd

Applicant: Jeannie Young for Compass Telecom Service

Owner: San Leandro Hayward Elks Lodge

ATTACHMENT A

FINDINGS FOR DENIAL
Administrative Use Permit Application 01-150-06
24970 Hesperian Boulevard

- A. The project is categorically exempt from CEQA review pursuant to Section 15270, Projects Which are Disapproved.
- B. The proposed telecommunications facility and monopole antennae is not desirable for the public convenience in that the facility is in the general vicinity of single-family residences and will result in a negative visual impact to the neighborhood. The stealth structure will have a distinctive appearance that will differ from the existing palm trees. In addition, the facility could be sited at other nearby locations, such as Chabot College, or at the front of the property as a replacement for the flagpole, which would result in less of a visual impact to the single-family residential neighborhood;
- C. The proposed use will impair the character and integrity of the proximate Single-Family Residential (RS) Zoning District and surrounding area in that 60-foot monopole stealth structure will alter the character of the neighborhood by introducing a pole structure at a major entry to the Southgate neighborhood that is distinguishable from surrounding palm trees and will have the appearance of a pole at human scale;
- D. The proposed use will be detrimental to the public health, safety, or general welfare in that several residents oppose the addition of a stealth structure since they feel that the existing palm trees have a negative visual impact on the single-family residential neighborhood; and
- E. That the proposed use is not in harmony with applicable City policies in that palm trees are not proffered landscaping materials in the City of Hayward. While the choice of a Monopalm appears to be consistent with the existing landscape materials, it strengthens a landscape scheme not thought to be appropriate, in general, for the City. In addition, the applicant has not been able to demonstrate the ability to match the existing palm trees. Furthermore, the 60-foot high structure is not compatible in scale with the low-rise character of the neighborhood.



REPORT TO THE CITY OF HAYWARD PLANNING COMMISSION

APPEAL OF THE PLANNING DIVISION DECISION TO DENY AUP 01-150-15 AN APPLICATION BY COMPASS TELECOM SERVICES TO INSTALL WIRELESS TELECOMMUNICATION FACILITY AT 24970 HESPERIAN BOULEVARD

RECEIVED
JUL 9 2001

INTRODUCTION

PLANNING DIVISION

On March 29, 2001, COMPASS Telecom Services filed an Administrative Use Permit application with the City of Hayward to allow construction of a stealth Sprint PCS wireless telecommunication facility on the Elks Lodge property located at 24970 Hesperian Boulevard. On April 27, 2001, the City of Hayward Planning Division issued a verbal notice of its decision to deny this application. A written notice of denial was received on May 8, 2001, and written findings supporting this decision were received by COMPASS Telecom Services on May 11, 2001.

On May 18, 2001, COMPASS Telecom Services submitted a letter to the City of Hayward Planning Manager, Dyana Anderly, appealing the Planning Division decision. This letter identified 5 specific reasons why the City decision was in error and requested that the Planning Commission hear the matter as soon as possible. This report has been prepared for the City of Hayward Planning Commission to assist in review of this appeal. COMPASS Telecom Services believes that the analysis provided in this report will help the Planning Commission determine that the decision to deny the Elks Lodge Administrative Use Permit (AUP) application is incorrect and that its approval is fully consistent with City regulations.

APPEAL ISSUES

- 1. The decision rendered by the Planning Division is based on factors not supported by adopted City of Hayward regulations.**

A. Adjacency to a Single Family Residential Neighborhood

Sprint PCS is proposing installation of a wireless telecommunication facility consisting of a stealth 'Monopalm' tree, attached antennas, and associated support equipment at the Elks Lodge property located at 24970 Hesperian Boulevard. The Elks Lodge property is zoned CN, Neighborhood Commercial, as are the adjacent properties located to the north, south and northeast of the site (Zoning Map, Attachment 1). The Elks Lodge property fronts on Hesperian Boulevard and forms part of a group of commercial land uses located along this major street. No residentially zoned property is located immediately adjacent to the Elks Lodge, the proposed wireless site being located a distance of approximately 200 feet west of the nearest residential property. The proposed wireless site is separated from this residential development by a commercially zoned parking lot that is part of the immediately adjacent movie theater complex. It is apparent from this that the proposed

Elks Lodge wireless site is better described as being in the general vicinity of residential development, rather than adjacent to residential development.

City of Hayward regulations governing the siting and appearance of wireless telecommunication facilities require that proposals for commercially zoned properties be compatible with existing commercial uses on the property as well as adjacent land uses. These standards (Sec 10-13.080) also allow for stealth facilities 'greater than 15 feet above the existing roof ridge line' to be located within a residential area. Substantial setbacks from residentially zoned properties are only required for telecommunications facilities proposed for location on a monopole or tower greater than 80 feet in height ((Sec. 10-13-.090). Further limitation on the role of adjacency to residential development as a valid decision criterion is found in Appendix C of the Telecommunication Facilities Ordinance, where Subsection E, Design Criteria for Monopoles, allows that:

"Monopoles shall not be located within the residential areas of the City unless they have been designed as stealth facilities and blend in with existing structures". (Emphasis added).

It is therefore apparent that existing City of Hayward regulations governing the location and appearance of wireless telecommunication facilities do not identify adjacency to residential development as a valid reason for denying this permit application. Further, the Elks Lodge property is not adjacent to residential development, further reducing the validity of the Planning Division decision.

COMPASS Telecom Services therefore asks that the Planning Commission overturn the Planning Division use of this criterion and approve the present application.

B. The proposed use will impair the character and integrity of the adjacent single family residential zoning district

Adopted City of Hayward regulations governing the location and appearance of commercial wireless telecommunication facilities allow their location within residentially zoned areas subject to the requirement that they be 'stealth' structures (Sec 10-13.080(a).3). These regulations also allow for telecommunication facilities in commercial zoning districts subject to the requirement that they are compatible with existing commercial uses on the property and adjacent land uses. Based on this, a proposed facility must be found to be compatible with adjacent land uses in order to receive administrative use approval.

Following review of city regulations and conversations with Planning staff, COMPASS Telecom Services determined that compatibility with adjacent land uses could best be achieved through use of a stealth installation. Visits to the Elks Lodge and surrounding area made it clear that replacing the existing flag pole or using a light standard would make it hard to conceal both the antennas and needed support equipment. A grove of 10 palm trees located at the rear of the property did, however, provide enough space for installing a stealth 'Monopalm' tree pole and concealing the wireless equipment behind existing fencing and landscaping. The application submitted to the City of Hayward

therefore achieved compatibility with adjacent land uses by proposing a facility design that was integrated with existing use of the Elks Lodge property to the maximum extent feasible. Compatibility with what currently exists is often achieved by proposing a new use that is either similar to, or closely complements what is already found in an area. The COMPASS Telecom Services proposal did exactly these things. It is also important to note that the height of the proposed 'Monopalm' is less than that of the existing palm trees on the project site and not excessive when compared with other vertical elements of the neighborhood streetscape.

COMPASS Telecom Services also requests the Planning Commission considers the importance of consistent application of this criterion in reviewing the present appeal. Previous decisions on land use compatibility issued by the Planning Division have found wireless facilities to be compatible with an area based on replacement of, or addition to, an existing structure. A good example of this is provided by AUP 00-150-16 approved by the City on August 2, 2000. In this case, an existing flagpole in front of a church was approved for replacement by a new flagpole that concealed an array of wireless antennas (Copies of the photosimulations submitted with this application are provided as Attachment 2 of this report). This site was also located in the middle of an existing residential neighborhood.

COMPASS Telecom Services believes that the stealth facility and site design proposed for the Elks Lodge property is highly compatible with surrounding uses and requests the Planning Commission approve this application.

C. Siting of the proposed facility at adjacent locations

Finding B of the Findings of Denial (Attachment 3) produced by the Planning Division argues that the proposed facility "could be sited at adjacent locations, such as Chabot College, which would result in less of a visual impact to the single-family residential neighborhood".

COMPASS Telecom Services believes that this justification for denial of AUP 01-150-06 is contrary to the purpose and intent of regulations adopted by the City of Hayward to govern the location of wireless telecommunication facilities. The City of Hayward regulations provides specific standards that have the effect of encouraging wireless telecommunication facilities to take preferred forms and be placed in preferred locations. One kind of location that the ordinance supports is property with a commercial zoning designation and a preferred form is that of a 'stealth' installation. Any decision to approve or deny an application must be based on its conformance with criteria specifically identified in adopted city regulations. The idea of moving across the street to a residentially zoned property (that has adjacent residential development) is not articulated in city regulations as a preferred choice. Similarly, the idea of transferring potential visual impact from one neighborhood to another is not supported.

This finding for denial also raises serious issues with regard to City compliance with the Federal Telecommunications Act of 1996. COMPASS Telecom Services believes that Chabot College lies outside the direct zoning authority of the City of Hayward, being

under the review and permitting authority of the Division of the State Architect (DSA). By identifying the college as a preferred location, it appears that the Planning Division believes that suitable wireless telecommunication sites are not available in the area that is under its zoning authority. Such a decision is directly contrary to Subsections 704.(B)(I) and (II) of the 1996 Act which state that:

“The regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof shall not prohibit or have the effect of prohibiting the provision of personal wireless services”.

COMPASS Telecom Services requests that that Planning Commission strike the cited portion of Finding B and use the analysis provided in this report to support approval of AUP 01-150-06.

D. The use of palm trees as acceptable landscaping

Finding E of the Findings of Denial issued for the Elks Lodge application states that “the proposed use is not in harmony with applicable City Design Guidelines which requires the selections of plants that compliment existing themes and architectural design in the area”. The finding then goes on to state that “The use of palm trees as acceptable landscaping around one-story commercial buildings is usually not allowed by the City of Hayward”.

Review of applicable policies provided in the current (1993) Design Guidelines suggests that there is actually very little support for either of these statements. The following policies from the City Design Guidelines support the design approach proposed by COMPASS Telecom Services for the Elks Lodge site:

Landscape Design: General Considerations

- Plant street frontages with large specimen trees (24” box minimum) to match existing tree planting or streetscape plan. (Emphasis added)

Landscape Design: Plant Selection

- Select plants that complement existing themes in the area and architectural design. Taller trees soften the lines of stark towers while spreading trees may complement low horizontal development. (Emphasis added)

Commercial: General Considerations

1. District character

Where there is an established theme or historic pattern in the area, new development should be designed to fit with the theme or historic pattern in order to build a cohesive district character.

b. Other arterials such as Harder Rd., Industrial Parkway and Hesperian Blvd. Have a landscaped boulevard appearance on extensive sections. Landscaped setbacks complement their features which include Victorian estates (Hesperian Blvd.). Maintaining green frontages along these arterials reinforces an attractive **suburban commercial** pattern. Landscaping should be a prominent, cohesive element.

Following the receipt of the Findings of Denial, COMPASS Telecom Services staff contacted the City of Hayward to obtain any official documents governing the identification and selection of preferred tree types in the project area. After contacting several city staff members, COMPASS obtained lists of street tree descriptions and tree selection forms for each city district. No official language could be found mandating the use of these tree types for new projects.

Based on this information, it is apparent that the Planning Division was mistaken in denying AUP 01-150-06 on the grounds of palm trees not being consistent with City Design Guidelines. Review of applicable policies, together with review of the project site (and surrounding area) make it apparent that the palm trees are clearly an existing theme, that the use of tall trees is also an existing theme, that large trees are encouraged, and that the proposal is consistent with the policy of maintaining a green frontage along Hesperian Boulevard. Further, no city policies or regulations appear to exist that provide explicit authority for forbidding the use of palm trees in this situation.

Based on this lack of regulatory support, COMPASS Telecom Services requests that the Planning Commission strike the first two sentences of Finding E and use the analysis provided in this report to support approval of AUP 01-150-06.

The issue of realistic appearance of the proposed 'monopalm' will be addressed later in this report.

E. Compatibility of the proposed 'Monopalm' with the existing scale of development

Findings C and E of the Findings for Denial issued for this application by the Planning Division identify the height of the stealth monopalm as an important factor in denying the Sprint PCS proposal. Finding C states that the height of the proposed stealth structure will alter the character of the neighborhood and Finding E states that it will not be compatible with the one story commercial buildings in the Neighborhood Commercial zone or the adjacent residential development.

Both these findings are based on subjective assertion rather than objective analysis of the project in the context of City regulations. Appendix A of the City of Hayward Telecommunications Ordinance identifies stealth structures of greater than 15 feet in height being allowed in commercial zones subject to approval of an Administrative Use Permit. By allowing the potential for location of these structures, the City has made the determination that stealth telecommunication structures have the potential to be compatible and integrate with any commercial development – the final issue of compatibility being determined by the appropriateness of the stealth design.

While the issue of the precise appearance of the proposed monopalm will be considered later, it is apparent that the Planning Division made the decision that a stealth palm tree would not 'work' on the Elks Lodge property. It is the belief of COMPASS Telecom Services that this decision was made without reference to the adopted Design Guidelines

as well as a refusal to consider the potential for stealth technology to work at this location. COMPASS Telecom Services believes that the proposed stealth monopine is consistent with City of Hayward Design Guidelines, proposing to blend a tall new structure (the wireless pole) with other (existing) tall structures (the Elks Lodge Palm trees). This approach is also fully consistent with the Design Criteria for Monopoles contained in Sec 10.13.C2.(e) of the City wireless regulations as well as the definitions of "stealth facility" and "stealth pole" provided in Appendix B of this ordinance.

COMPASS Telecom Services requests that the Planning Commission support the continued use of a stealth 'monopalm' on the Elks Lodge property and approve Administrative Use Permit 01-15-015.

2. The decision was made without reference to the full set of applicable decision criteria identified in Article 13 of the City of Hayward code regulating wireless telecommunication facilities.

While the majority of issues raised by the Planning Division denial of AUP 01-150-06 are covered elsewhere in this report, the Findings of Denial fail to show non-compliance of the proposal with the second part of required Administrative Use Permit finding D (SEC. 10-1.3125.d).

This finding requires that in order to approve a proposal, the city must find it to be in harmony with the purpose of the zoning district. The fourth sentence of the Planning Division Findings of Denial issued for this proposal states that:

"Furthermore, the 60 foot structure is not compatible in scale with the one story commercial buildings in the Neighborhood Commercial Zoning District..."

This conclusion is not supported by Section 10-1.800 of the zoning code controlling the Neighborhood Commercial zoning district. Section 10-1.805, Purpose, is entirely silent about height issues, identifying this zoning district as providing convenience goods and services that are purchased frequently. - As a frequently used service, a Sprint PCS wireless telecommunication facility would be consistent with the purpose of this zone. Further, the building height limit identified for the Neighborhood Commercial zone is 40 feet - considerably taller than the single story mentioned in Finding D.

COMPASS Telecom Services believes that the stealth wireless telecommunication facility proposed for the Elks Lodge property is consistent with the purposes of the Neighborhood Commercial zone. - The proposed facility will provide a frequently used and locally consumed commercial service and also complies with the design and landscaping standards referenced in the zone standards.

COMPASS Telecom Services requests that the Planning Commission finds the proposed stealth wireless telecommunication facility to be consistent with the purpose of the Neighborhood Commercial zone and use this as a basis for approving the application.

3. The Planning Division failed to appropriately consider all materials submitted with the application.

The original Administrative Use Permit application submitted to the Planning Division on March 29 fully described the proposed Sprint PCS project. The description of the proposed monopalm tree stated that 'Both the pole's trunk and palm leaves will be painted and textured to match the existing adjacent palm trees'. The photosimulations provided to the City with the application showed a stealth palm tree of the correct height, but not of the same species as the palms existing on the Elks Lodge. This was due to no other stealth palm of this type having been produced and installed at a site.

On April 4 the assigned staff planner, Arlynne Camire, requested by e-mail (Attachment 4) a photograph or brochure showing only the proposed stealth palm. Working to accommodate this request, COMPASS Telecom Services staff tried again to find an existing example of a stealth palm of the same species as that required for the Elks Lodge site, but were unable to do so. Faced with this need to provide a photograph of an existing stealth palm to the reviewing planner, COMPASS sent them a sample picture of an existing stealth palm built for a different site. This fact was made clear in the letter accompanying the photograph (Attachment 5) as was the fact that the palm leaves, antennas and trunk would be painted and textured to match the existing Elks Lodge palms.

These limitations on the accuracy of the newly submitted photograph were ignored by the Planning Division in their Findings for Denial issued for AUP 01-150-15. The third sentence of Finding E states "In addition, the proposed stealth structure is artificial in appearance, Kelly Green with exposed antenna, which is not compatible with the surrounding palm trees. It is apparent from this that the Planning Division chose to ignore, or perhaps misplaced, key information provided by COMPASS Telecom Services in reaching its decision.

It is also important to note that in deciding to deny this application, the Planning Division chose not to use any of its available authority to condition an approval to guarantee a suitable outcome for the city. Many cities and counties make final approval of a project (building permit sign off) contingent upon it successfully integrating with the existing trees. This option was open to the Planning Division. Planning Staff were aware of the efforts made by COMPASS Telecom Services to secure a viable stealth palm design, yet chose not to use this option, thereby making the arbitrary decision that stealth technology was not viable for this site. Such a decision is contrary to adopted city regulations.

COMPASS Telecom Services would agree to an approval of AUP 01-150-15 that required us to achieve successful integration of the proposed stealth telecommunication facility.

4. The decision was made without consideration of citizen outreach work performed by the applicant.

Finding D of the Findings of Denial issued by the Planning Division for AUP 01-150-06 states that:

“The proposed use will be detrimental to the public health, safety, or general welfare in that several residents oppose the addition of a stealth structure since they feel that the existing palm trees have a negative visual impact on the single family residential neighborhood”.

Leaving aside the lack of clarity relating to public health, safety and welfare, this finding places substantial emphasis on citizen opposition to the proposal as being a justification for denial. COMPASS Telecom Services staff reviewed the City file for this application on May 11, 2001, and found that notification of this wireless facility application had been mailed to a total of 59 neighborhood groups and adjacent property owners on April 4, 2001. These notices resulted in only one (1) response being recorded in the project file, a telephone call in opposition to the proposal from an area resident (Attachment 6). COMPASS Telecom Services believes that there is an important difference between the ‘several’ residents cited in Finding D and the one record found in the official project file.

The validity of this finding is further undermined by the fact that a representative of COMPASS Telecom Services requested information on neighborhood association views on this proposal (Attachment 7). Working from the response received from the staff planner, the same COMPASS representative attended a meeting of the Southgate Homeowners Association on the evening of April 4 when this proposal was discussed. This meeting resulted in no special concerns or specific opposition being expressed on the proposal (Attachment 8).

The fact of COMPASS attending the neighborhood meeting and reporting on the results does not appear to have been considered by the Planning Division in preparing Finding D or issuing this denial. Further, the level of neighborhood opposition identified in this finding is clearly erroneous. COMPASS Telecom Services contends that neighborhood opposition to this proposal is extremely limited and requests that the Planning Commission uses the information on public response and outreach provided in this report to support approval of AUP 01-150-06.

5. The Planning Division failed to properly notify COMPASS Telecom Services of its decision.

The City of Hayward Planning Division made the decision to deny AUP 01-150-15 on April 27, 2001 (Attachment 9). This decision was also communicated to COMPASS Telecom Services by telephone on April 27. A copy of the official letter denying the application was faxed to COMPASS on May 8 (Attachment 10) and a hard copy was received shortly after that. The Findings of Denial were not provided with either the

faxed or mailed letter and were only provided to COMPASS Telecom Services when a representative of the company visited the Planning Division offices on May 11, 2001.

Subsection 10-13.080.(b) of the city Telecommunications Facilities Ordinance requires that an Administrative Use Permit can only be approved (a decision made) if the required findings are made. By failing to make the Findings of Denial available at the time the decision letter was issued, the Planning Division violated this requirement. This delay in making the findings available harmed COMPASS Telecom Services by reducing the time available to the company to consider the full city decision and submit an appeal that properly identified all the issues raised by this denial.

COMPASS Telecom Services requests that the Planning Commission consider the delays experienced in receiving the full decision information from the Planning Division and use this issue as a justification to support approval of AUP 01-150-15.

CONCLUSION

The Planning Division decision to deny AUP 01-150-15 is inconsistent with adopted city regulations and contains several serious errors. The Sprint PCS Elks Lodge application has the potential to comply with all relevant city regulations and should be approved subject to standard City of Hayward conditions. COMPASS Telecom Services will be pleased to work with the Planning Division to see the project successfully completed in a manner that fully integrates with the area surrounding the Elks Lodge property.

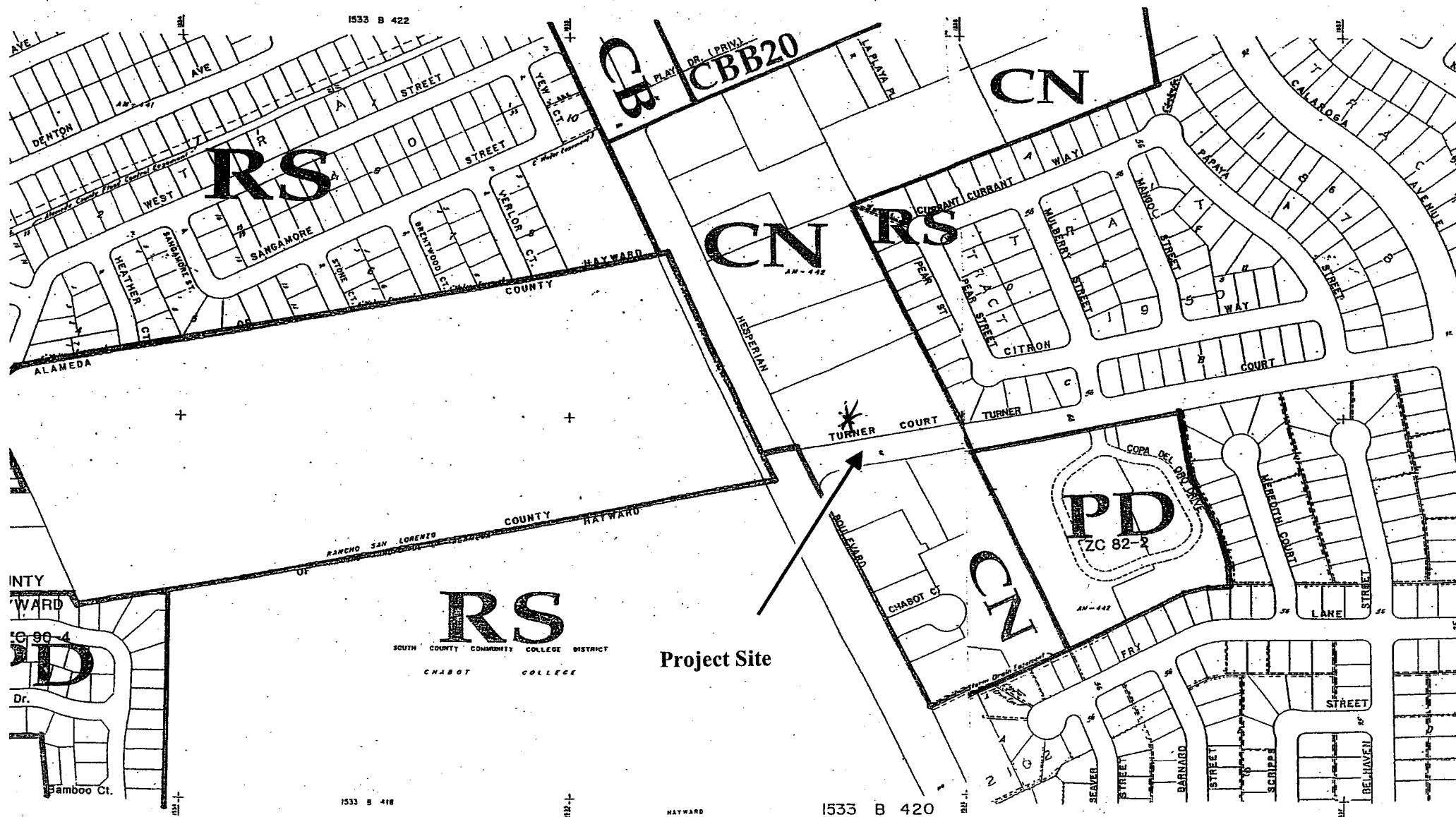
REQUESTED RELIEF

COMPASS Telecom Services requests that the Planning Commission reverse the City of Hayward Planning Division decision to deny AUP 01-150-15 and approve the proposed stealth wireless telecommunication facility.

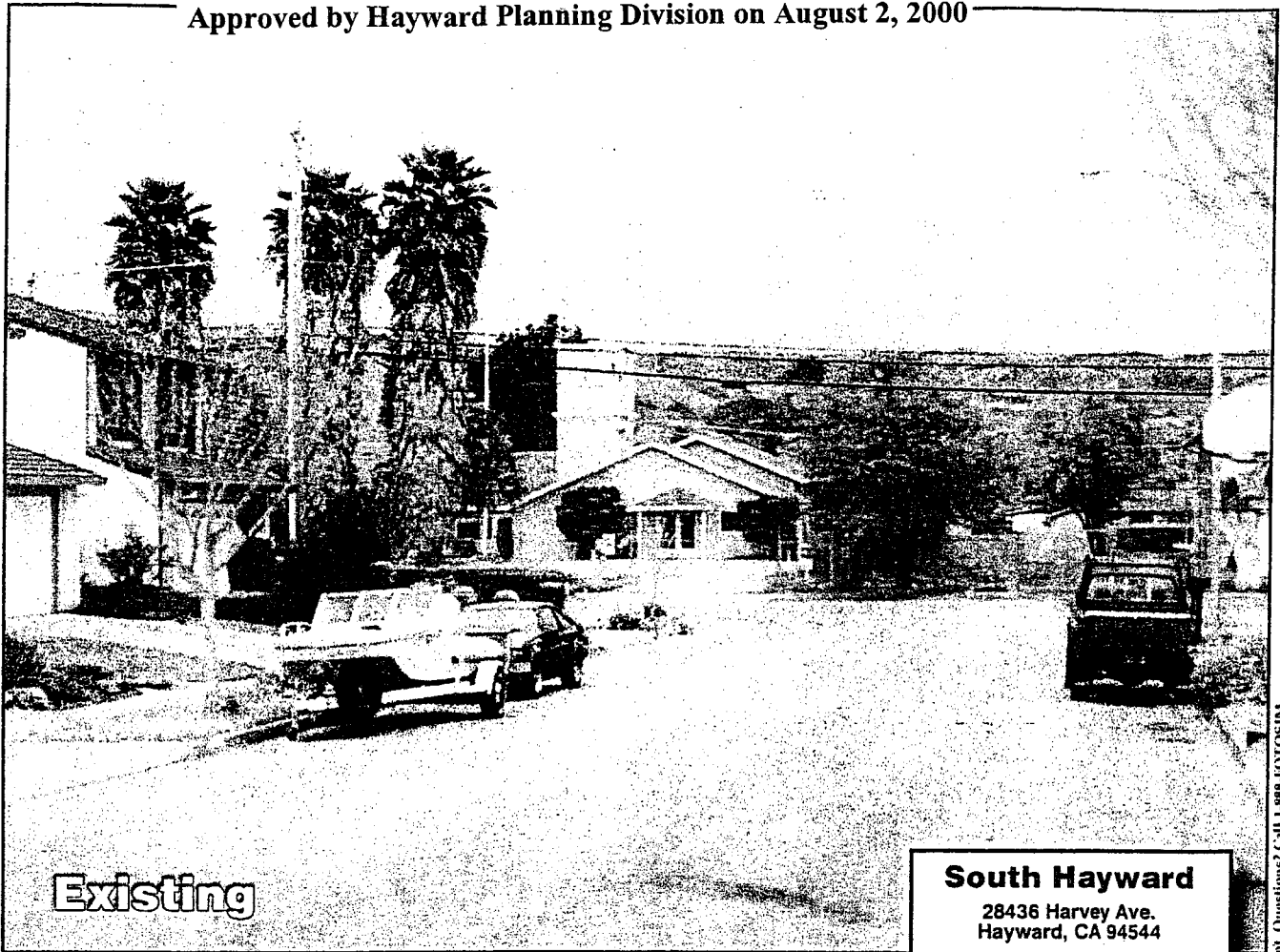
REPORT ATTACHMENTS
COMPASS Telecom Services Appeal for Sprint PCS
Elks Lodge, 24970 Hesperian Boulevard

Attachments

1. Area Zoning Map
2. Photosimulations Submitted with Application Number AUP 00-150-16
3. Findings of Denial for AUP 01-15-06
4. April 4, 2001 E-Mail from Arlynne Camire
5. April 13, 2001 Letter from Jeannie Young to Arlynne Camire
6. Planning Division Staff note on adjacent resident phone call (undated).
7. April 3, 2001 E-Mail from Jeannie Young to Arlynne Camire
8. May 11 memorandum from Jeannie Young to James Holland
9. City of Hayward Notice of Decision
10. Faxed Letter of Denial for AUP 01-150-15



Photosimulation of view looking east from the nearby neighborhood across Harvey.

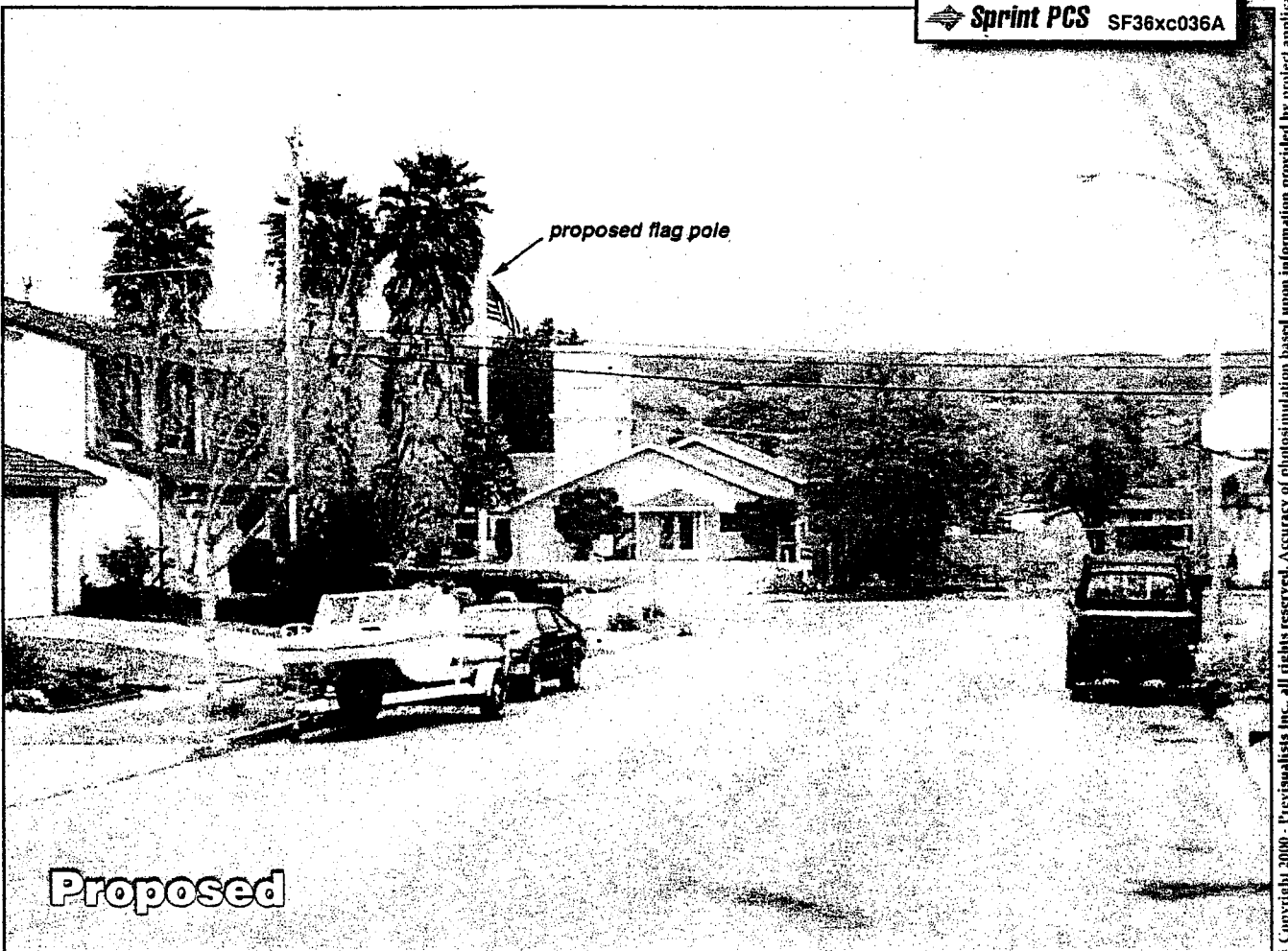


Existing

South Hayward

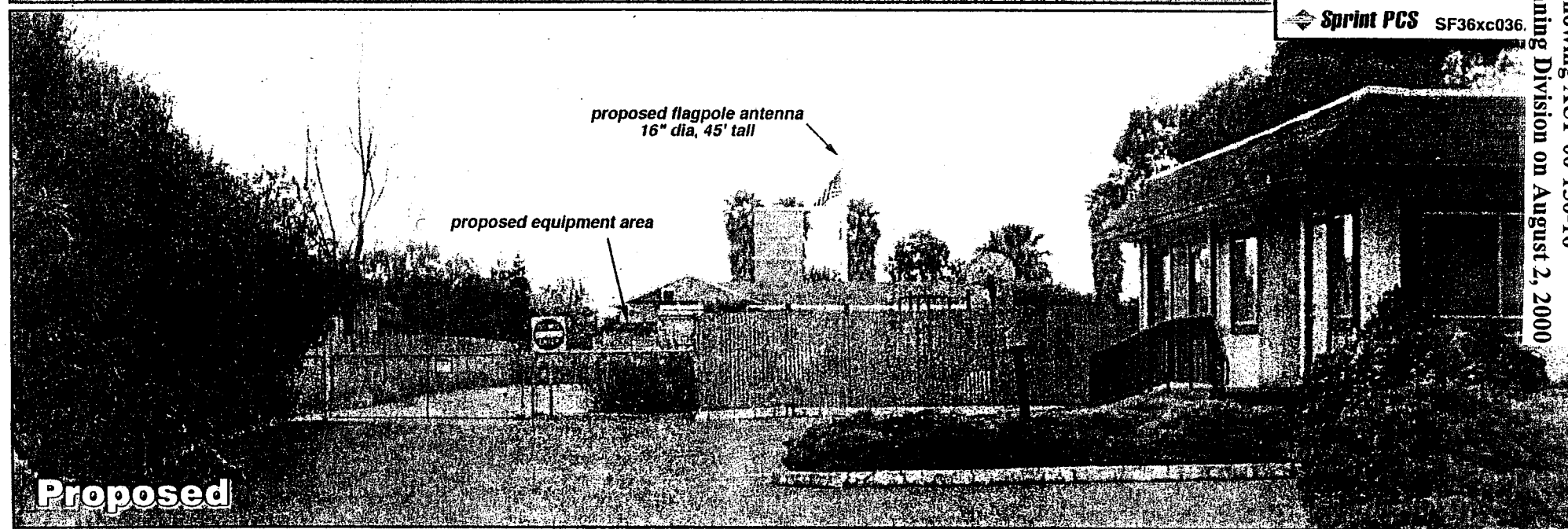
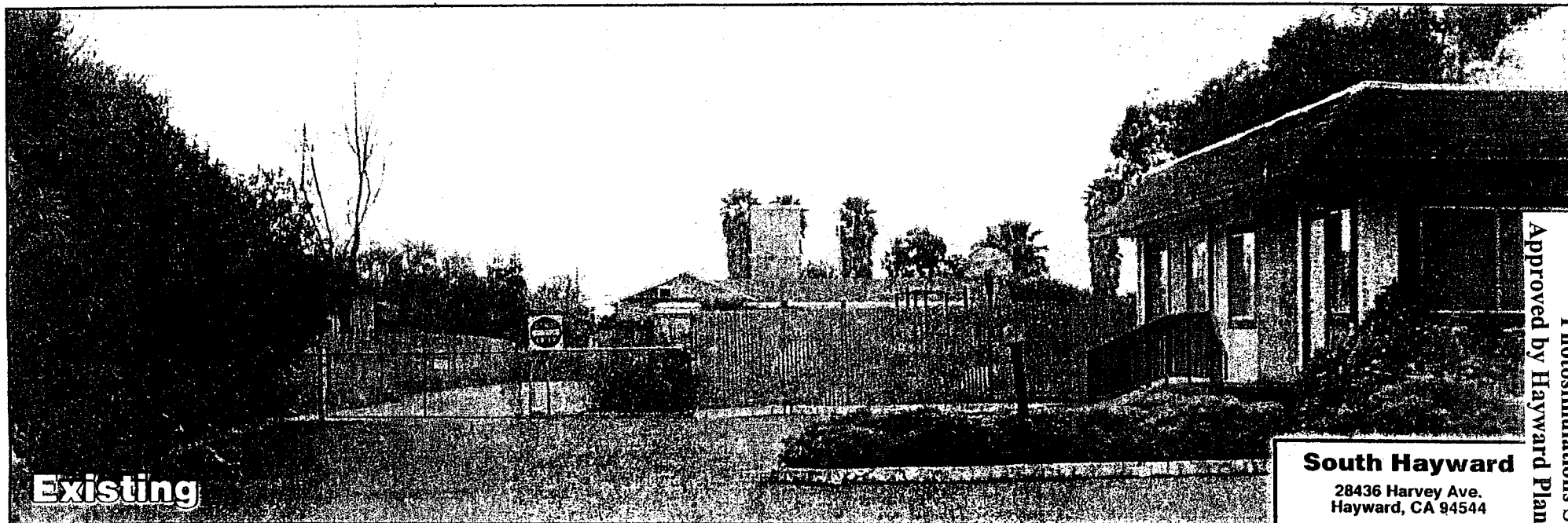
28436 Harvey Ave.
Hayward, CA 94544

 **Sprint PCS** SF36xc036A



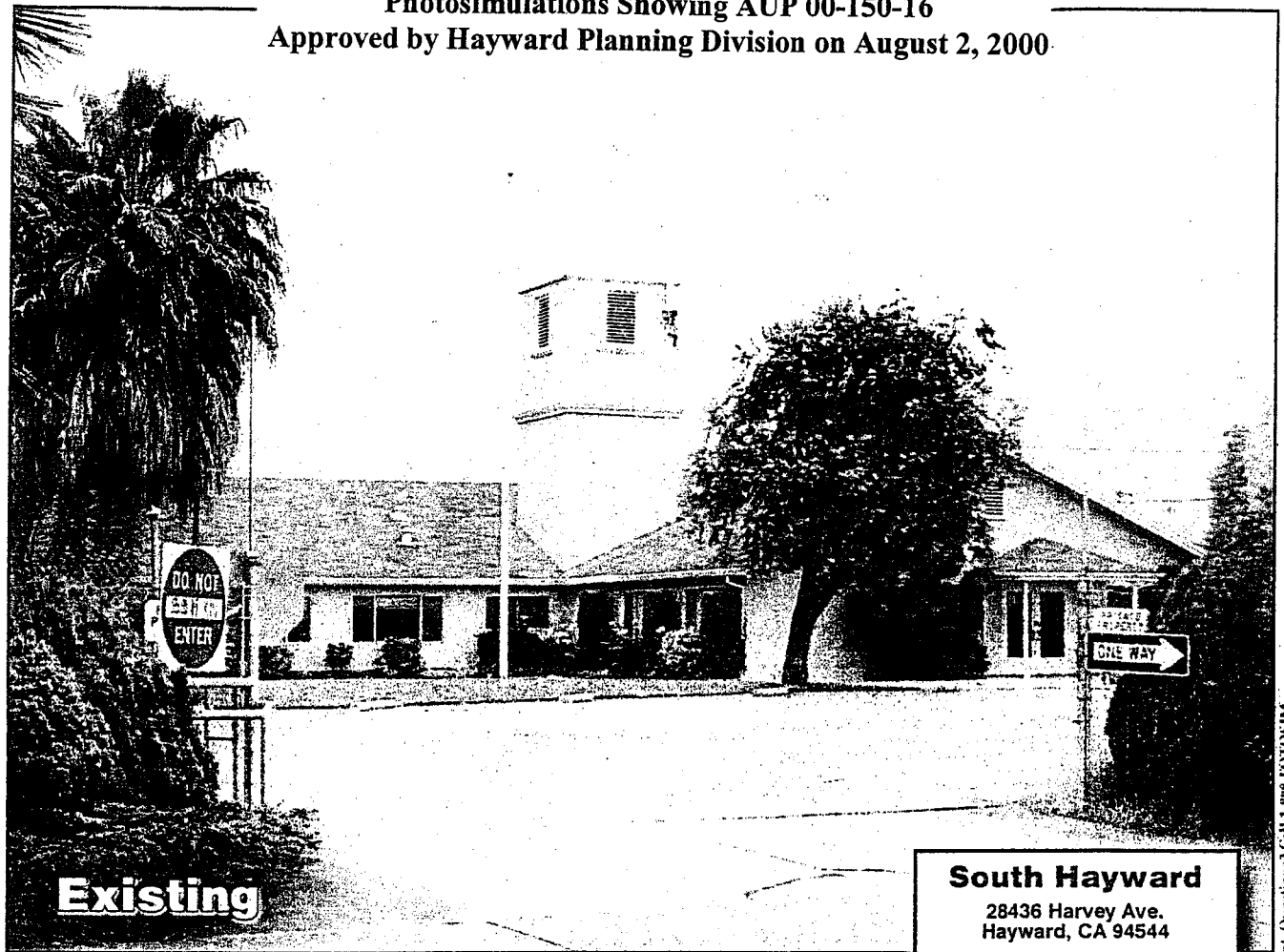
Proposed

Photosimulation of view looking west from Ruus Road.



Photosimulation of view looking east from the front of the church on Harvey Ave.

Photosimulations Showing AUP 00-150-16
Approved by Hayward Planning Division on August 2, 2000



South Hayward

28436 Harvey Ave.
Hayward, CA 94544

 **Sprint PCS** SF36xc036A



**CITY OF HAYWARD
PLANNING DIVISION
ADMINISTRATIVE USE PERMIT
FINDINGS OF DENIAL**

April 27, 2001

ADMINISTRATIVE USE PERMIT APPLICATION NO. 01-150-06 - JEANNIE YOUNG FOR COMPASS TELECOM SERVICES (APPLICANT)/SAN LEANDRO HAYWARD ELKS LODGE (OWNER) - Request to construct, operate and maintain an unstaffed, wireless telecommunication facility consisting of a 60-foot tall stealth structure and equipment cabinets in the rear yard of the Elks Lodge.

The site is located at 24970 Hesperian Boulevard, in the Neighborhood Commercial Zoning District. (APN:442-38-7)

FINDINGS FOR DENIAL

- A. The project is categorically exempt from CEQA review pursuant to Section 15270, Projects Which are Disapproved.
- B. The proposed telecommunications facility and monopole antennae is not desirable for the public convenience in that the facility is adjacent to single-family residential homes which will result in a negative visual impact to the neighborhood. The stealth structure will have a distinctive appearance that will differ from the existing palm trees. In addition, the facility could be sited at adjacent locations, such as Chabot College, which would result in less of a visual impact to the single-family residential neighborhood;
- C. The proposed use will impair the character and integrity of adjacent Single-Family Residential Zoning District and surrounding area in that 60-foot monopole stealth structure will alter the character of the neighborhood by introducing a pole structure that is distinguishable from surrounding palm trees and will have the appearance of a pole at human scale;
- D. The proposed use will be detrimental to the public health, safety, or general welfare in that several residents oppose the addition of a stealth structure since they feel that the existing palm trees have a negative visual impact on the single-family residential neighborhood; and
- E. That the proposed use is not in harmony with applicable City Design Guidelines which requires the selections of plants that compliment existing themes and architectural design in the area. The use of palm trees as acceptable landscaping around one-story commercial buildings is usually not allowed by the City of

Hayward. In addition, the proposed stealth structure is artificial in appearance, Kelly green with exposed antenna, which is not compatible with surrounding palm trees. Furthermore, the 60 foot structure is not compatible in scale with the one-story commercial buildings in the Neighborhood Commercial Zoning District and the adjacent one-story single-family residential homes.

Young, jeannie

From: Arlynne Camire [ArlynneC@ci.hayward.ca.us]
Sent: Wednesday, April 04, 2001 2:27 PM
To: jyoung@compass-tele.com
Subject: Re: 24970 Hesperian Blvd application

Thank you for your email.

The Southgate Homeowner's Association is going to meet tonight and they are going to discuss the project. If you wish to attend, I can contact the representative and find out the time and place.

I was wondering if you have a photo or brochure that shows just the palm. The photo in our file is not clear.

Thank you.

Arlynne Camire
>>> "Young, jeannie" <jyoung@compass-tele.com> 04/03 3:34 PM >>>
Arlynne,

Hello. I just wanted to introduce myself to you. I'm the applicant for the proposed Sprint PCS wireless telecommunication facility and have been working with Sheldon McClellan on designing a wireless facility that would work for both the City of Hayward and Sprint PCS.

Is there a neighboring homeowner and/or property owner association near the Elks Lodge. If yes, what's your general sense of their view of this application?

Thank you for your assistance. If you have any questions or clarification regarding the application, please contact me.

Jeannie Young
COMPASS Telecom Services
5776 Stoneridge Mall Road, Suite 255
Pleasanton, CA 94588
Mobile: 925-200-6661
Office: 925-225-2811
Fax: 925-225-4081
jyoung@compass-tele.com



April 13, 2001

Arlynn Camire
Planning Division
City of Hayward
777 B Street
Hayward, CA 94541

Dear Ms. Camire:

This letter is in regards to your April 4, 2001 email requesting a "clearer" picture of the proposed Sprint PCS monopalm tree at the Elks Lodge backyard. Enclosed, please find a sample picture of an existing monopalm tree built for another site. For our proposal, the palm leaves, antennas, and trunk will be painted to match and textured the existing, nearby palm trees in the Elks Lodge facility. Keep in mind that this picture has more antennas than our proposed six antennas.

Please let me know if this picture suffices. Call me at (925) 225-2811 if you have questions or comments.

Sincerely,

COMPASS Telecom Services

A handwritten signature in cursive script that reads "Jeannie Young". The signature is written in dark ink and is positioned below the typed name.

Jeannie Young

Attachment

Received a call in opposition to the stealth facility:

Gaetana Ardito

24757 Pear St

She feels that they have to put up with the palm trees, this is just too much.

Arlynnne Camire

>>> "Young, jeannie" <jyoung@compass-tele.com> 04/03 3:34 PM >>>

Arlynnne,

Hello. I just wanted to introduce myself to you. I'm the applicant for the proposed Sprint PCS wireless telecommunication facility and have been working with Sheldon McClellan on designing a wireless facility that would work for both the City of Hayward and Sprint PCS.

Is there a neighboring homeowner and/or property owner association near the Elks Lodge. If yes, what's your general sense of their view of this application?

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Office: 925-225-2811
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jyoung@compass-tele.com



Compass Telecom Services, L.L.C. • 2110 Newmarket Parkway • Suite 200 • Marietta, GA 30067

Ph: 770-701-2500 Fax: 770-701-2501

Memorandum

DATE: May 11, 2001

TO: James Holland

FROM: Jeannie Young

RE: Elks Lodge SF54xc069A

Here is the status of my involvement with Hayward's homeowner associations. On April 3, 2001, I contacted Arlynne Camire, the Hayward planner assigned to Sprint's application and asked if the City had any homeowner associations near the Elks Lodge. On April 4, Arlynne notified me that the Southgate Area Homeowners Association contacted her that day asking if a representative from COMPASS Telecom Services could attend the Southgate Area Homeowners Association Board Meeting to discuss the application (see April 3 and 4 email).

Edward Bogue, secretary for the Southgate Area Homeowners Association provided the time and direction to the board meeting. At the meeting, I presented the application, drawings, and photosimulations for the board members to review. The board members appeared to be receptive and spoke positively about Sprint's monopalm design. Since the meeting, I have not heard from the board members. On May 8, I left a phone message with Edward Bogue to follow up, but he has not returned my phone call.

NOTICE OF DECISION

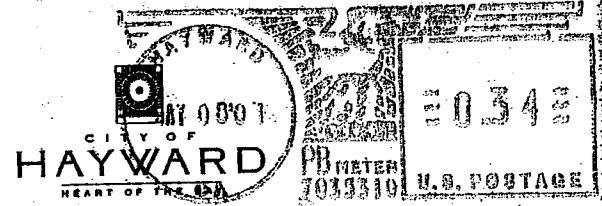
On April 27, 2001 the PLANNING DIRECTOR of the City of Hayward administratively denied a request to construct, operate, and maintain an unstaffed wireless telecommunication facility consisting of a 60 ft monopole atenea covered with an artificial palmtree (stealth monopalm tree) and equipment cabinets in the backyard of the Elks Lodge.

The property is at 24970 Hesperian Boulevard in the

The decision by the Planning Director on this application is final and will become effective on Thursday, May 24, 2001 unless appealed. Written *appeals* must be received no later than 5:00 p.m. on Wednesday, May 23, 2001, and must set forth the specific grounds of the appeal. If appealed, a public hearing will be scheduled before the Planning Commission for a decision.



34555/4523



Planning Division
777 B Street, Hayward CA 94541-5007

JEANNIE YOUNG
COMPASS TELECOM SERVICES
5776 STONERIDGE MALL RD., STE.255
PLEASANTON CA 94588

Reference:

AUP 01-150-15
Jeannie Young for Compass Telecom Services (*Applicant*)
San Leandro Hayward Elks Lodge (*Owner*)

Reference:

AUP 01-150-15
Jeannie Young for Compass Telecom Services (*Applicant*)
San Leandro Hayward Elks Lodge (*Owner*)





CITY OF
HAYWARD
HEART OF THE BAY

May 4, 2001

Jeannie Young
Compass Telecom Services
5776 Stoneridge Mall Road
Suite 255
Pleasanton, CA 94588

Re: AUP 01-150-15-24970 Hesperian Blvd F54XC069

Dear Ms. Young:

This letter is to inform you that on April 27, 2001, the Planning Director denied your application request for a stealth palm tree monopole antennae and unmanned telecommunications facility to be located at the Elks Lodge. It was denied because it is not a compatible use with the adjacent single-family residential neighborhood and we suggest that you contact Chabot College to inquire about the availability of a possible location for your facility on the campus.

Prior to May 22, 2001, interested parties may appeal the decision of the Planning Director. Should an appeal be filed, this matter will be referred to the Planning Commission for a decision. If no appeal is filed, the Planning Director's Decision will be final.

If there is anything that I can assist you with or if you should have any questions, please feel free to call me at (510) 583-4206.

Sincerely,

Arlynn J. Camire, AICP
Associate Planner

cc: San Leandro Hayward Elks Lodge, 24970 Hesperian Blvd, Hayward, CA 94545

Date	5-8-01	# of pages	1
From	A. CAMIRE		
To	Jeannie Young		
Co./Dept.			
Phone #			
Fax #	925-265-4001		

Post-It Fax Note 7671